THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1955.

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BOMBAY ACT No. XXXIX OF 1955.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1955.]

[*28th October 1955*]

An Act further to amend the Code of Criminal Procedure, 1898, in its application to the State of Bombay.

V of 1898. WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, in its application to the State of Bombay, for the purposes hereinafter appearing ; It is hereby enacted in the Sixth Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1955.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 14 of Act V of 1898.

V of 1898. 2. For section 14 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the " said Code "), the following shall be substituted, namely :—

Special Magistrates.

" 14 (*1*) The State Government may, in consultation with the High Court, confer upon any person who holds or has held any judicial post under the Union or a State, or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf by the State Government by notification in the *Official Gazette*, all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may, in consultation with the High Court, by general or special order, direct.

(*2*) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may, by general or special order, direct :

Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no power shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

(*3*) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (*2*) ".

Amendment of section 30 of Act V of 1898.

3. In section 30 of the said Code, the words " District Magistrate ", at both the places where they occur, shall be deleted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1955, Part V, page 413.

Insertion of new section 406AA in Act V of 1898.

4. After section 406 of the said Code, the following section shall be inserted, namely :—

Appeal from direction made by District Magistrate to make further inquiry into proceedings in which an order of release or discharge has been made under section 119.

"406AA. Any person aggrieved by a direction made by a District Magistrate under sub-section (2) of section 436 requiring any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make further inquiry into any proceedings in which an order of release or discharge has been made by him under section 119 may appeal against such direction to the Court of Session.".

Amendment of section 408 of Act V of 1898.

5. For section 408 of the said Code, the following shall be substituted, namely —

Appeal from sentence of Assistant Sessions Judge or any Magistrate.

"408. Any person convicted on a trial held by an Assistant Sessions Judge or a Judicial Magistrate or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate may appeal to the Court of Session :

Provided as follows :—

(*1*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, the appeal of all or any of the accused convicted at such trial shall lie to the High Court ;

(*2*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court." XLV of 1860.

Amendment of section 435 of Act V of 1898.

6. In section 435 of the said Code, for sub-section (*4*) the following shall be substituted, namely :—

"(*4*) The High Court may call for and examine the record of any proceeding in respect of an order made under section 118, 122, 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate or the Commissioner of Police, as the case may be."

Amendment of section 436 of Act V of 1898.

7. In section 436 of the said Code, in sub-section (*2*), after the words "inquiry into any proceedings" the words and figures "in which an order of release or discharge has been made under section 119" shall be inserted.

8. After s ction 438 of the said Code, the following section shall be inserted, namely :— Insertion of new section 438A in Act V of 1898.

"438A. On examining under section 435 or otherwise the record of any proceeding,— Power of District Magistrate to report to High Court or decide finally proceedings called for.

(*1*) if such proceeding is in respect of an order made under section 118, 122, 143, 144 or 145 and the District Magistrate thinks that the order made in such proceeding should be reversed or altered, he shall report for the orders of the High Court the result of such examination ;

(*2*) if such proceeding is in respect of an order made under any other section, then in the case of such proceeding the District Magistrate may, subject to the provisions of sub-section (*2*) of section 436, exercise any of the powers conferred on a Court of Appeal by sections 423, 426, 427 and 428."

9. In section 505 of the said Code, for sub-section (*1*) the following shall be substituted, namely :— Amendment of section 505 of Act V of 1898.

"(*1*) Upon receipt of the commission, the District Magistrate or such Magistrate subordinate to him as he may appoint in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under this Code."